

By the Committee on Crime & Punishment and Representatives Effman, Stafford, Ritter, Wasserman Schultz, Rayson, Tobin, Mackenzie, Lippman, Eggelletion, Lacasa, Silver, Ritchie, Frankel, Jacobs, Edwards, Spratt, D. Prewitt, Fischer, Ogles, (Additional Sponsors on Last Printed Page)

1 A bill to be entitled
 2 An act relating to child care facilities;
 3 creating the "Jeremy Fiedelholtz Safe Day Care
 4 Act"; amending s. 402.319, F.S.; increasing a
 5 penalty for violations relating to licensure or
 6 operation of a child care facility or family
 7 day care home; providing a penalty for making
 8 other misrepresentations to certain persons
 9 regarding such licensure or operation;
 10 providing a penalty for negligence or
 11 intentional act and the parent or guardian
 12 relied on a misrepresentation; amending s.
 13 921.0022, F.S.; providing for ranking of
 14 violations on the offense severity ranking
 15 chart; providing an effective date.
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 17 Be It Enacted by the Legislature of the State of Florida:
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 19 Section 1. This act may be cited as the "Jeremy
 20 Fiedelholtz Safe Day Care Act."
 21 Section 2. Section 402.319, Florida Statutes, is
 22 amended to read:
 23 402.319 Penalties.--
 24 (1) It is a felony ~~misdemeanor~~ of the third first
 25 degree, punishable as provided in s. 775.082 or s. 775.083,
 26 for any person ~~willfully, knowingly, or intentionally~~ to:
 27 (a) ~~(1)~~ Fail, by false statement, misrepresentation,
 28 impersonation, or other fraudulent means, to disclose in any
 29 application for voluntary or paid employment or licensure
 30 regulated under ss. 402.301-402.318 all information required
 31 under those sections or a material fact used in making a

1 determination as to such person's qualifications to be child
2 care personnel, as defined in s. 402.302, ~~an owner, operator,~~
3 ~~employee, or volunteer~~ in a child care facility, family day
4 care home, or other child care program.

5 ~~(b)(2)~~ Operate or attempt to operate a child care
6 facility without having procured a license as required by this
7 act.

8 ~~(c)(5)~~ Operate or attempt to operate a family day care
9 home without a license or without registering with the
10 department, whichever is applicable.

11 ~~(d)(3)~~ Operate or attempt to operate a child care
12 facility or family day care home under a license that is
13 suspended, revoked, or terminated.

14 ~~(e)(4)~~ ~~Misrepresent~~ Represent, by act or omission, a
15 child care facility or family day care home to be duly
16 licensed pursuant to this act without being so licensed.

17 ~~(f)~~ Make any other misrepresentation, by act or
18 omission, regarding the licensure or operation of a child care
19 facility or family day care home to a parent or guardian who
20 has a child placed in the facility or is inquiring as to
21 placing a child in the facility, or to a representative of the
22 licensing authority, or to a representative of a law
23 enforcement agency, including, but not limited to, any
24 misrepresentation as to:

25 1. The number of children at the child care facility
26 in violation of s. 402.305(4), or the family day care home in
27 violation of s. 402.302(7);

28 2. The part of the child care facility or family day
29 care home designated for child care;

30 3. The qualifications or credentials of child care
31 personnel;

1 4. Whether a family day care home or child care
2 facility complies with the screening requirements of s.
3 402.305; or

4 5. Whether child care personnel have the training as
5 required by s. 402.305.

6 (2) If any child care personnel makes any
7 misrepresentation in violation of this section to a parent or
8 guardian who has placed a child in the child care facility or
9 family day care home, and the parent or guardian relied upon
10 the misrepresentation, and the child suffers great bodily
11 harm, permanent disfigurement, permanent disability, or death
12 as a result of an intentional act or negligence by the child
13 care personnel, then the child care personnel commits a felony
14 of the second degree, punishable as provided in s. 775.082, s.
15 775.083, or s. 775.084.

16 Section 3. Paragraphs (f) and (g) of subsection (3) of
17 section 921.0022, Florida Statutes, are amended to read:

18 921.0022 Criminal Punishment Code; offense severity
19 ranking chart.--

20 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(f) LEVEL 6
316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.

1	<u>402.319(1)(f)</u>	<u>3rd</u>	<u>Felony misrepresentation or</u>
2			<u>operation of a child care</u>
3			<u>facility.</u>
4	775.0875(1)	3rd	Taking firearm from law
5			enforcement officer.
6	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
7			without intent to kill.
8	784.021(1)(b)	3rd	Aggravated assault; intent to
9			commit felony.
10	784.048(3)	3rd	Aggravated stalking; credible
11			threat.
12	784.07(2)(c)	2nd	Aggravated assault on law
13			enforcement officer.
14	784.08(2)(b)	2nd	Aggravated assault on a person 65
15			years of age or older.
16	784.081(2)	2nd	Aggravated assault on specified
17			official or employee.
18	784.082(2)	2nd	Aggravated assault by detained
19			person on visitor or other
20			detainee.
21	787.02(2)	3rd	False imprisonment; restraining
22			with purpose other than those in
23			s. 787.01.
24	790.115(2)(d)	2nd	Discharging firearm or weapon on
25			school property.
26	790.161(2)	2nd	Make, possess, or throw
27			destructive device with intent to
28			do bodily harm or damage
29			property.
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1	790.164(1)	2nd	False report of deadly explosive
2			or act of arson or violence to
3			state property.
4	790.19	2nd	Shooting or throwing deadly
5			missiles into dwellings, vessels,
6			or vehicles.
7	794.011(8)(a)	3rd	Solicitation of minor to
8			participate in sexual activity by
9			custodial adult.
10	794.05(1)	2nd	Unlawful sexual activity with
11			specified minor.
12	806.031(2)	2nd	Arson resulting in great bodily
13			harm to firefighter or any other
14			person.
15	810.02(3)(c)	2nd	Burglary of occupied structure;
16			unarmed; no assault or battery.
17	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
18			but less than \$100,000, grand
19			theft in 2nd degree.
20	812.13(2)(c)	2nd	Robbery, no firearm or other
21			weapon (strong-arm robbery).
22	817.034(4)(a)1.	1st	Communications fraud, value
23			greater than \$50,000.
24	817.4821(5)	2nd	Possess cloning paraphernalia
25			with intent to create cloned
26			cellular telephones.
27	825.102(1)	3rd	Abuse of an elderly person or
28			disabled adult.
29	825.102(3)(c)	3rd	Neglect of an elderly person or
30			disabled adult.
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1	825.1025(3)	3rd	Lewd or lascivious molestation of
2			an elderly person or disabled
3			adult.
4	825.103(2)(c)	3rd	Exploiting an elderly person or
5			disabled adult and property is
6			valued at \$100 or more, but less
7			than \$20,000.
8	827.03(1)	3rd	Abuse of a child.
9	827.03(3)(c)	3rd	Neglect of a child.
10	827.071(2)&(3)	2nd	Use or induce a child in a sexual
11			performance, or promote or direct
12			such performance.
13	836.05	2nd	Threats; extortion.
14	836.10	2nd	Written threats to kill or do
15			bodily injury.
16	843.12	3rd	Aids or assists person to escape.
17	914.23	2nd	Retaliation against a witness,
18			victim, or informant, with bodily
19			injury.
20	944.35(3)(a)2.	3rd	Committing malicious battery upon
21			or inflicting cruel or inhuman
22			treatment on an inmate or
23			offender on community
24			supervision, resulting in great
25			bodily harm.
26	944.40	2nd	Escapes.
27	944.46	3rd	Harboring, concealing, aiding
28			escaped prisoners.
29	944.47(1)(a)5.	2nd	Introduction of contraband
30			(firearm, weapon, or explosive)
31			into correctional facility.

1	951.22(1)	3rd	Intoxicating drug, firearm, or
2			weapon introduced into county
3			facility.
4			(g) LEVEL 7
5	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
6			injury.
7	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
8			bodily injury.
9	<u>402.319(2)</u>	<u>2nd</u>	<u>Misrepresentation and negligence</u>
10			<u>or intentional act resulting in</u>
11			<u>great bodily harm, permanent</u>
12			<u>disfiguration, permanent</u>
13			<u>disability, or death.</u>
14	409.920(2)	3rd	Medicaid provider fraud.
15	494.0018(2)	1st	Conviction of any violation of
16			ss. 494.001-494.0077 in which the
17			total money and property
18			unlawfully obtained exceeded
19			\$50,000 and there were five or
20			more victims.
21	782.07(1)	2nd	Killing of a human being by the
22			act, procurement, or culpable
23			negligence of another
24			(manslaughter).
25	782.071	3rd	Killing of human being by the
26			operation of a motor vehicle in a
27			reckless manner (vehicular
28			homicide).
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1	782.072	3rd	Killing of a human being by the
2			operation of a vessel in a
3			reckless manner (vessel
4			homicide).
5	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
6			causing great bodily harm or
7			disfigurement.
8	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
9			weapon.
10	784.045(1)(b)	2nd	Aggravated battery; perpetrator
11			aware victim pregnant.
12	784.048(4)	3rd	Aggravated stalking; violation of
13			injunction or court order.
14	784.07(2)(d)	1st	Aggravated battery on law
15			enforcement officer.
16	784.08(2)(a)	1st	Aggravated battery on a person 65
17			years of age or older.
18	784.081(1)	1st	Aggravated battery on specified
19			official or employee.
20	784.082(1)	1st	Aggravated battery by detained
21			person on visitor or other
22			detainee.
23	790.07(4)	1st	Specified weapons violation
24			subsequent to previous conviction
25			of s. 790.07(1) or (2).
26	790.16(1)	1st	Discharge of a machine gun under
27			specified circumstances.
28	796.03	2nd	Procuring any person under 16
29			years for prostitution.
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1	800.04	2nd	Handle, fondle, or assault child
2			under 16 years in lewd,
3			lascivious, or indecent manner.
4	806.01(2)	2nd	Maliciously damage structure by
5			fire or explosive.
6	810.02(3)(a)	2nd	Burglary of occupied dwelling;
7			unarmed; no assault or battery.
8	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
9			unarmed; no assault or battery.
10	810.02(3)(d)	2nd	Burglary of occupied conveyance;
11			unarmed; no assault or battery.
12	812.014(2)(a)	1st	Property stolen, valued at
13			\$100,000 or more; property stolen
14			while causing other property
15			damage; 1st degree grand theft.
16	812.019(2)	1st	Stolen property; initiates,
17			organizes, plans, etc., the theft
18			of property and traffics in
19			stolen property.
20	812.133(2)(b)	1st	Carjacking; no firearm, deadly
21			weapon, or other weapon.
22	825.102(3)(b)	2nd	Neglecting an elderly person or
23			disabled adult causing great
24			bodily harm, disability, or
25			disfigurement.
26	825.1025(2)	2nd	Lewd or lascivious battery upon
27			an elderly person or disabled
28			adult.
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1	825.103(2)(b)	2nd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$20,000 or more, but
4			less than \$100,000.
5	827.03(3)(b)	2nd	Neglect of a child causing great
6			bodily harm, disability, or
7			disfigurement.
8	827.04(4)	3rd	Impregnation of a child under 16
9			years of age by person 21 years
10			of age or older.
11	872.06	2nd	Abuse of a dead human body.
12	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
13			cocaine (or other s.
14			893.03(1)(a), (1)(b), (1)(d),
15			(2)(a), or (2)(b) drugs) within
16			1,000 feet of a school.
17	893.13(4)(a)	1st	Deliver to minor cocaine (or
18			other s. 893.03(1)(a), (1)(b),
19			(1)(d), (2)(a), or (2)(b) drugs).
20	893.135(1)(a)1.	1st	Trafficking in cannabis, more
21			than 50 lbs., less than 2,000
22			lbs.
23	893.135		
24	(1)(b)1.a.	1st	Trafficking in cocaine, more than
25			28 grams, less than 200 grams.
26	893.135		
27	(1)(c)1.a.	1st	Trafficking in illegal drugs,
28			more than 4 grams, less than 14
29			grams.
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- 1 893.135
- 2 (1)(d)1. 1st Trafficking in phencyclidine,
- 3 more than 28 grams, less than 200
- 4 grams.
- 5 893.135(1)(e)1. 1st Trafficking in methaqualone, more
- 6 than 200 grams, less than 5
- 7 kilograms.
- 8 893.135(1)(f)1. 1st Trafficking in amphetamine, more
- 9 than 14 grams, less than 28
- 10 grams.

11 Section 4. This act shall take effect October 1 of the
12 year in which enacted.

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ADDITIONAL SPONSORS

Heyman, Wallace, Brown, Murman, Villalobos, Chestnut, Sindler,
Lynn, Harrington, Brennan, Bullard, Turnbull, Gottlieb,
Alexander, Putnam and Hafner